

Remarks

The Office Action mailed July 20, 2007 has been received and reviewed. Claims 1, 15, 25, and 27 having been amended, the pending claims are claims 1-14, 25, 36, 37, and 40-44. Reconsideration and withdrawal of the rejections are respectfully requested.

Obviousness-Type Double Patenting Rejection

Claims 1-44 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-51 of U.S. Patent Application No. 10/917,002. Upon an indication of otherwise allowable subject matter and in the event this rejection is maintained, Applicants will provide an appropriate response.

The 35 U.S.C. §112, First Paragraph, Rejection

The Examiner rejected claim 25 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner alleged that claim 25 requires the article made by the method of claim 1 is essentially free of the ammonium compound or residual components of the ammonium compound and the silver-containing compound introduced during the application of the solution. Further, the Examiner alleged that it is not clear from the disclosure, as well as claim 25, if the article coated by the coating solution will have silver compound or not.

With respect to claims 25, the Applicants respectfully submit that silver is always present in the substrate, but that the ammonium compounds may be driven off. As acknowledged by the Examiner in the Office Action mailed July 20, 2007, the Specification supports that the ammonia, or ammonium compounds, are driven off of the substrate while the silver compound remains coated on the substrate. Claim 25 has been amended to clarify this matter and

Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph.

The 35 U.S.C. §112, Second Paragraph, Rejection

The Examiner rejected claims 14 and 25 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner alleged that a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. The Examiner alleged that the claims are rendered indefinite by raising a question or doubt because it is subject of more than one interpretation, and one interpretation would render the claim unpatentable over the prior art.

Regarding claim 14, the Applicants respectfully submit that film is not necessarily generic to gauze and foam. Conversely, gauze and foam are not necessarily subsets, and therefore, not necessarily narrower in scope than film. Rather, the Applicants present that film, gauze and foam are utilized in the instant application as three individual substrates onto which silver compounds may be coated. Support for this matter can be found in the Specification on p. 5 in the paragraph beginning at line 29, wherein the suitable materials for impregnating with silver compounds “are preferable flexible, and may be fabric, non-woven or *woven polymeric webs, polymer films*, hydrocolloids, *foam*, metallic foils, paper, and/or combinations thereof” (emphasis added). Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

With respect to claim 25, it has been amended to remove the term “essentially” thereby rendering the rejection under 35 U.S.C. §112, second paragraph moot.

The 35 U.S.C. §102 Rejection

The Examiner rejected claims 1, 2, 5, 9-14, 25, and 36 under 35 U.S.C. §102(b) as being anticipated by GB 769,799. This rejection is respectfully traversed.

MPEP §2131 states, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Applicants wish to bring to the Examiner's attention that the method disclosed by GB 769,799 differs from the methods disclosed in the instant application. It is respectfully submitted that there is no teaching or suggestion of techniques for combining a sparingly soluble silver-containing compound with an ammonium-containing compound to form an aqueous solution. Specifically, GB 769,799 discloses a method using two separate solutions each containing an independent metal salt. Furthermore, a third salt solution is used in the preparation of the second metal-salt solution. The use of multiple solutions results in the precipitation of silver particles on the surface of the article as stated, for instance, on page 2, lines 116-125 of GB 769,799. In this aspect GB 769,799 fails to set forth a method of using a single silver-containing solution and also fails to describe an article impregnated with soluble silver as made by the method as presented in the instant application.

The method of GB 769,799 utilizes an additional step of mechanically drying the coated substrate following exposure to each solution. The mechanical drying is subsequently followed by exposing the substrate to heat. The method of the instant application simplifies the coating method significantly by preferably utilizing a single sparingly soluble silver-containing solution, and by permitting the method to eliminate the step of mechanically drying the coated substrate.

In sum, GB 769,799 fails to recite each and every feature of the claims. Accordingly, the rejection of claims 1, 2, 5, 9-14, 25, and 36 under 35 U.S.C. §102(b) as being anticipated by GB 769,799 must fail. Notification of this is respectfully requested.

The 35 U.S.C. §103 Rejections

The Examiner rejected claims 3, 4, 7, 8, and 37 under 35 U.S.C. §103(a) as being unpatentable over GB 769,799 in view of WO 02/43743. This rejection is respectfully traversed.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over GB 769,799 in view of U.S. Patent No. 4,592,920. This rejection is respectfully traversed.

M.P.E.P. §706.02(j) states, “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure” (emphasis added).

Applicants wish to bring to the Examiner's attention that while the invention of the instant application comprises a single soluble silver-containing solution with an ammonium containing compound, GB 769,799 recites two separate solutions; the first of which contains the silver salts, the second of which contains the ammonium compound. Nothing in WO 02/43743 or in US 4,592,920 teaches or suggests one solution. Therefore, combination fails to teach or suggest all of the features of Applicants' claims and fails to establish *prima facie* case of obviousness.

In sum, GB 769,799, alone or in combination with WO 02/43743 or U.S. Patent No. 4,592,920, fails to recite each and every feature of the claims. Accordingly, the rejection of claims 3, 4, 6-8, and 37 under 35 U.S.C. §103(a) as being obvious in view of GB 769,799 with WO 02/43743 and U.S. Patent No. 4,592,920 as being incorporated into the disclosure of GB 769,799 must fail. Notification of this is respectfully requested.



Amendment and Response

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Summary

It is respectfully submitted that the pending claims 1-44 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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CERTIFICATE UNDER 37 CFR §1.10:

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The undersigned hereby certifies that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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